

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 1999-097-C - ORDER NO. 1999-606  
AUGUST 31, 1999

IN RE: Application of Airnex Communications, Inc. ) ORDER ✓ MR  
for a Certificate of Public Convenience and ) GRANTING  
Necessity to Operate as a Reseller of ) APPLICATION  
Interexchange Telecommunications Services )  
within the State of South Carolina. )

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Airnex Communications, Inc. ("Airnex" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide intrastate resold telecommunications services between and among locations within the State of South Carolina as a non-facilities based interexchange telecommunications service provider. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1998) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Airnex to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Airnex's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Airnex complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. No Petitions to Intervene or Protests were filed.

A hearing was convened on August 19, 1999, at 10:30 a.m. in the Commission's Hearing Room. The Honorable Philip T. Bradley, Chairman, presided. Airnex was not represented by counsel. Jocelyn D. Green, Staff Counsel, represented the Commission Staff.

Shige Yamaji, President and Chief Executive Officer of Airnex, appeared and testified in support of the Application. The record reveals Airnex is a California corporation which is registered to conduct business in South Carolina as a foreign corporation. According to Mr. Yamaji, the Company has received certification to provide telecommunications services in forty states. Although the Company intends to target primarily the Asian community in reselling its telecommunications services, the Company will not refuse its services to other types of customers. Airnex will operate as a switchless reseller in South Carolina. The Company plans to use Sprint as its underlying carrier.

Mr. Yamaji testified further that Airnex will offer its services to residential and business customers. The Company will market its services by direct sales (i.e. advertisements, newspapers, and magazines). Most of Airnex's sales persons will be bilingual so that the Company can effectively sell its product to ethnic communities. The Company has a sufficient amount of financial resources to adequately provide its services in South Carolina. In addition, the person the Commission Staff should contact concerning financial information on Airnex is the Company's Comptroller, Nancy Wu. The Regulatory Contact person is Lance J.M. Steinhart, Esquire.

Airnex's Customer Service Department will be available twenty-four hours a day, seven days a week. An employee will be available at all times to answer questions from customers. Airnex's billing services will be performed by the Company.

Mr. Yamaji also discussed Airnex's technical and managerial resources that enable the Company to provide the services for which it seeks authority. Finally, Mr. Yamaji testified that Airnex will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. Airnex is organized as a corporation under the laws of the State of California and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.
2. Airnex operates as a non-facilities based reseller of interexchange services and wishes to provide its services in South Carolina.
3. Airnex has the experience, capability, and financial resources to provide the services as described in its Application.

#### **CONCLUSIONS OF LAW**

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Airnex to provide intrastate interLATA service and to originate and terminate toll traffic within the same

LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Airnex for its resale of residential services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been adopted previously by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Airnex shall not adjust its residential rates below the approved maximum level without notice to the Commission and to the public. Airnex shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-0-C (July 16, 1993). Any proposed increase in the maximum rate level for residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1998).

4. If it has not already done so by the date of issuance of this Order, Airnex shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. Airnex is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Airnex shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Airnex changes underlying carriers, it shall notify the Commission in writing.

8. Airnex shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

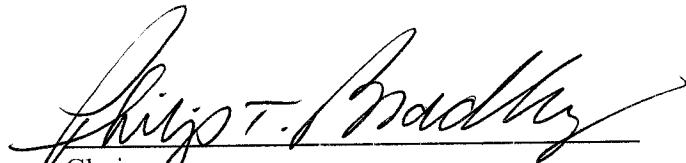
9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Airnex

shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. Attachment B shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

10. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)

DOCKET NO. 1999-097-C - ORDER NO. 1999-606  
AUGUST 31, 1999  
ATTACHMENT A

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**ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS  
FOR INTEREXCHANGE COMPANIES AND AOS'S**

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COMPANY NAME

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FEI NO.

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ADDRESS

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CITY, STATE, ZIP CODE

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PHONE NUMBER

- (1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS\* FOR  
12 MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- \* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,  
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION WORK IN  
PROGRESS, ACCUMULATED DEFERRED INCOME TAX, CONTRIBUTIONS IN AID OF  
CONSTRUCTION AND CUSTOMER DEPOSITS.
- (4) PARENT'S CAPITAL STRUCTURE\* AT DECEMBER 31 OR FISCAL YEAR ENDING  
\_\_\_\_\_.
- \* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION  
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.
- (5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND  
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.
- (6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE AMOUNT  
OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS WELL AS  
METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT (SEE #3  
ABOVE).

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SIGNATURE

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NAME (PLEASE TYPE OF PRINT)

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TITLE

DOCKET NO. 1999-097-C - ORDER NO. 1999-606  
AUGUST 31, 1999  
ATTACHMENT B

**INFORMATION OF THE AUTHORIZED UTILITY  
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL  
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION  
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission  
the name, title, address, and telephone number of the persons who should be contacted in  
connection with Customer Relations/Complaints.

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Company Name/DBA Name

---

Business Address

---

City, State, Zip Code

---

Authorized Utility Representative (Please Print or Type)

---

Telephone Number

Fax Number

---

E-Mail Address

---

This form was completed by      Signature

If you have any questions, contact the Consumer Services Department at 803-896-5230